



COUNTY OF LOS ANGELES
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September 28, 2016

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TO: LORI GLASGOW
Executive Officer
Board of Supervisors

Attention: Agenda Preparation *RAH*

FROM: ROGER H. GRANBO
Senior Assistant County Counsel
Executive Office

RE: **Item for the Board of Supervisors' Agenda**
County Claims Board Recommendation
Florentina Demuth v. County of Los Angeles, et al.
United States District Court Case No. CV 10-6783

Attached is the Agenda entry for the Los Angeles County Claims Board's recommendation regarding the above-referenced matter. Also attached are the Case Summary and Summary Corrective Action Plan to be made available to the public.

It is requested that this recommendation, the Case Summary and the Summary Corrective Action Plan be placed on the Board of Supervisors' agenda.

RHG:scr

Attachments

Board Agenda

MISCELLANEOUS COMMUNICATIONS

Los Angeles County Claims Board's recommendation: Authorize settlement of the matter entitled Florentina Demuth v. County of Los Angeles, et al, United States District Court Case No. CV 10-6783 in the amount of \$350,000 and instruct the Auditor-Controller to draw a warrant to implement this settlement from the Sheriff's Department's budget.

This lawsuit alleges false arrest, excessive force, and civil rights violations by a Sheriff's Deputy.

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	Florentina Demuth v. County of Los Angeles, et al.
CASE NUMBER	CV 10-6783 MWF
COURT	United States District Court
DATE FILED	September 13, 2010
COUNTY DEPARTMENT	Sheriff's Department
PROPOSED SETTLEMENT AMOUNT	\$ 350,000
ATTORNEY FOR PLAINTIFF	Daniel Crawford, Esq. Crawford Weinstein LLP
COUNTY COUNSEL ATTORNEY	Jonathan McCaverty Principal Deputy County Counsel
NATURE OF CASE	<p>This is a recommendation to settle for \$350,000, inclusive of attorneys' fees and costs, a federal civil rights lawsuit filed by Florentina Demuth arising out of a February 11, 2010, incident at the Los Padrinos Juvenile Courthouse whereby Ms. Demuth was handcuffed and brought to court.</p> <p>The Deputy claims his actions were reasonable under the circumstances.</p> <p>Due to the risks and uncertainties of litigation, a reasonable settlement at this time will avoid further litigation costs. Therefore, a full and final settlement of the case in the amount of \$350,000 is recommended.</p>
PAID ATTORNEY FEES, TO DATE	\$ 229,103
PAID COSTS, TO DATE	\$ 34,844

Case Name: Florentina Demuth v. County of Los Angeles, et al.



Summary Corrective Action Plan

The intent of this form is to assist departments in writing a corrective action plan summary for attachment to the settlement documents developed for the Board of Supervisors and/or the County of Los Angeles Claims Board. The summary should be a specific overview of the claims/lawsuits' identified root causes and corrective actions (status, time frame, and responsible party). This summary does not replace the Corrective Action Plan form. If there is a question related to confidentiality, please consult County Counsel.

Date of incident/event:	February 11, 2010, at approximately 9:45 A.M.
Briefly provide a description of the incident/event:	<p><u>Florentina Demuth v. County of Los Angeles</u> Summary Corrective Action Plan 2016-019</p> <p>On Thursday, February 11, 2010, at approximately 9:45 A.M., a uniformed Los Angeles County Deputy Sheriff, assigned to Los Padrinos Juvenile Court was ordered by a bench officer to bring the plaintiff¹ to Department 250.</p> <p>The deputy sheriff went to the Public Defender's office where he located the plaintiff. The deputy sheriff advised the plaintiff that a bench officer had ordered him to escort her to Department 250. The deputy sheriff asked the plaintiff to comply with the bench officer's order to appear several times, but the plaintiff refused to go saying she would go to the court at a later time. The plaintiff then asked if she would be arrested. The deputy sheriff told the plaintiff she would be arrested if need be to comply with the court order.</p> <p>The plaintiff then asked if she would be handcuffed. In order to comply with the bench officer's order, and believing it would be the only way to get the plaintiff to comply with the court order, the deputy sheriff retrieved a pair of handcuffs. The plaintiff voluntarily turned around and put her hands behind her back without the deputy sheriff instructing her to do so.</p> <p>The deputy sheriff handcuffed the plaintiff, but took care to not tighten the handcuffs on the plaintiff's wrists to avoid discomfort. The deputy sheriff then lightly grasped the plaintiff's upper right arm and escorted her to the court. The plaintiff did not resist the handcuffing, or the escort, and was cooperative. The escort was uneventful.</p> <p>Upon entering the courtroom, the deputy sheriff offered to remove the handcuffs, but the plaintiff refused and stated she wanted the handcuffs to remain in place. Since there were other matters being heard at the time, the deputy sheriff offered two more times to remove the handcuffs from the plaintiff. The plaintiff declined both times to have her handcuffs removed. Based on the plaintiff's demeanor, the deputy sheriff did not believe the handcuffs were causing the plaintiff any discomfort.</p> <p>Once the bench officer called the plaintiff's case, the plaintiff asked why she had been handcuffed and for permission to remove the handcuffs. The bench officer agreed with the plaintiff's request to remove the</p>

¹ The plaintiff is an attorney, working for the Los Angeles County Public Defender's office, and at the time of the incident was working at Los Padrinos Juvenile Court

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	<p>handcuffs. The plaintiff turned her back to the deputy sheriff who removed the handcuffs².</p> <p>The plaintiff asked to leave the courtroom to retrieve some documents from the Public Defender's office. The bench officer ordered the deputy sheriff to escort the plaintiff. After approximately five minutes, the deputy sheriff walked to the lobby of the Public Defender's office and saw another witness taking photographs of the plaintiff's wrists. The deputy sheriff told the plaintiff that the bench officer was waiting for their return. The plaintiff stated pictures needed to be taken of her wrists.</p> <p>After another five minutes, the plaintiff walked out of the Public Defender's office and returned to Department 250 along with the deputy sheriff.</p> <p>With regard to any possible injuries, the plaintiff claimed to another deputy sheriff that she had sustained an injury and stated she would seek her own medical treatment. It should be noted, there was no formal verification of the plaintiff's injuries since she refused to cooperate with the Sheriff's Department's investigation into this matter.</p>
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1. Briefly describe the **root cause(s)** of the claim/lawsuit:

Sheriff's Department Root Cause:

A Department root cause in this incident was a misunderstanding between the court and the deputy sheriff resulting in a 4th Amendment violation. Although the presiding court referee requested the deputy sheriff to locate and advise the plaintiff to appear in court, she did not order the plaintiff to be forcibly remanded into custody if she refused.

A **non-Department** root cause in this incident was the plaintiff's repeated delay and refusal to report to the presiding court referee's judicial summons to appear.

2. Briefly describe recommended corrective actions:
(Include each corrective action, due date, responsible party, and any disciplinary actions if appropriate)

The plaintiff indicated that she had a complaint of pain to her wrists and shoulder as a result of the force used in this incident.

This incident was thoroughly investigated by members of the Los Angeles County Sheriff's Department to determine if the force used by the deputy sheriff on the plaintiff was legal and within Departmental policy.

Executive review of this incident determined that the deputy's actions were an appropriate means to carry out the perceived order of the court. The force used by the deputy sheriff was also found to be measured in its application and minimal since it was limited to un-resisted handcuffing.

Although the plaintiff later claimed she was "dragged" into court by the deputy sheriff, this claim was not substantiated by eye witnesses to the incident. The witnesses' accounts revealed that the plaintiff's escort to the courtroom was uneventful and involved no application of force.

The deputy sheriff's claim to have not placed the handcuffs too tightly on the plaintiff was circumstantially supported by the plaintiff's jovial demeanor while in the court as referenced by several eye witnesses.

² The plaintiff remained in handcuffs for approximately 11 minutes and did not want the handcuffs removed until the plaintiff spoke to the court on the record to mention that she had been handcuffed.

Several of the witness, as well as the recorded court audio, attested to the deputy sheriff's offers to the plaintiff to remove the handcuffs and the plaintiff's refusal to have them removed until after the plaintiff addressed the court on the record.

This incident was investigated by Court Services Division – East Bureau personnel to determine if any administrative misconduct occurred before, during, or after this incident. The investigation results were presented for executive review and evaluation.

Upon careful review of the incident, the Court Services Division – East Bureau captain determined the deputy sheriff's use of force, tactics, and actions were within Department policy.

Upon transferring to Court Services Division, personnel are required to attend a bailiff orientation training course where procedures for "Short Term Remands" are discussed. If a Deputy Sheriff leaves Court Services Division for more than five years, they are required to re-attend the training course in its entirety.

As of August 2, 2016, 100% of sworn Court Services Division – East Bureau personnel have completed the re-briefing training related to *Temporary/Short Term Remands and Searching New Remands*.

Court Services Division has requested all of their bureaus to complete re-briefing training to all sworn personnel regarding these same issues. The division wide re-brief acknowledgement is expected to be completed by the end of September, 2016.

This incident was found in favor of the County of Los Angeles during the State Trial Court. After the appeal to the 9th Circuit Court of Appeals, the court affirmed portions of the verdict and reversed portions of the verdict.

The 9th Circuit Court of Appeals declared, "The dispute should have been resolved by an admission that the deputy violated Demuth's constitutional rights, followed by mutual apologies and a handshake, saving the taxpayers of Los Angeles County the considerable costs of litigating this tiff."

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3. Are the corrective actions addressing Department-wide system issues?

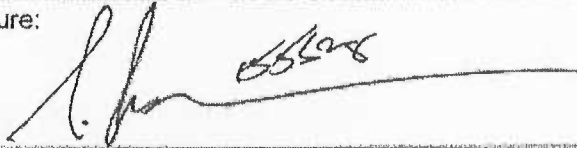
- ☐ Yes – The corrective actions address Department-wide system issues.
☒ No – The corrective actions are only applicable to the affected parties.

Los Angeles County Sheriff's Department

Name: (Risk Management Coordinator)

Scott E. Johnson, Captain
Risk Management Bureau

Signature:



Date:

8-24-16

Name: (Department Head)

Karyn Mannis, Chief
Professional Standards Division

Signature:

Karyn Mannis

Date:

08-25-16

Chief Executive Office Risk Management Inspector General USE ONLY

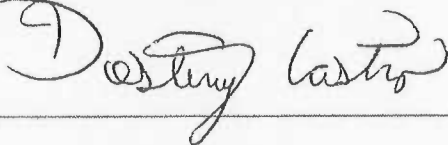
Are the corrective actions applicable to other departments within the County?

- ☐ Yes, the corrective actions potentially have County-wide applicability.
☒ No, the corrective actions are applicable only to this Department.

Name: (Risk Management Inspector General)

Destiny Castro

Signature:



Date:

8/26/2016